

NOTICE OF PROPOSED RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 1. DEPARTMENT OF COMMERCE

PREAMBLE

1. Sections Affected

Rulemaking Action

Article 1	Amend
R20-1-101	Amend
R20-1-102	Amend
R20-1-103	Repeal
R20-1-103	Re-number
R20-1-103	Amend
R20-1-104	Re-number
R20-1-104	New Section
R20-1-105	Repeal
R20-1-105	Re-number
R20-1-105	Amend
R20-1-106	Re-number
R20-1-106	Amend
R20-1-107	Repeal
R20-1-107	New Section
R20-1-108	Repeal
R20-1-108	Re-number
R20-1-108	Amend
R20-1-109	Re-number
R20-1-109	Amend
R20-1-110	Repeal
R20-1-110	Re-number
R20-1-110	Amend
R20-1-111	Repeal
R20-1-111	Re-number
R20-1-111	Amend
R20-1-112	Repeal
R20-1-113	Repeal
R20-1-114	Repeal
R20-1-115	Repeal
R20-1-116	Re-number
R20-1-117	Re-number
R20-1-118	Re-number
R20-1-119	Re-number
R20-1-120	Repeal

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 41-1504(B)(4)

Implementing statutes: A.R.S. §§ 41-1541, 41-1542, 41-1543, 41-1544, and 41-2704

3. A list of all previous notices appearing in the Register addressing the proposed rules:

A Notice of Rulemaking Docket Opening is published in this issue of the *Register*.

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4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Joan Laurence
Address: Arizona Department of Commerce
3800 North Central Ave., Suite #1500
Phoenix, Arizona 85012
Telephone: (602) 280-8181
Fax: (602) 280-1358

5. An explanation of the rule, including the agency's reasons for initiating the rulemaking:

This rulemaking follows the Five-Year Review of these rules, approved by the Governor's Regulatory Review Council at the January 2001 meeting. This rulemaking includes actions promised in the Five-Year Review, including bringing all rules into compliance with current rule-writing standards.

The Arizona legislature passed HB 2262 during the 2000 Session (Laws 2000, Ch.383) making significant amendments to the statutes implemented by these rules, including the following.

- Changing the title of the program from "Work Force Recruitment and Job Training Program" to "Arizona Job Training Program" ("Program") to reflect that recruitment assistance is not part of the program.
- Deleting statutory references to recruitment. The program continues to encourage training for specific employment opportunities with qualified businesses through reimbursement of a portion of the training cost.
- Requiring new and expanding businesses and businesses undergoing economic conversion to contribute monies or other appropriate resources equal to at least 25% of the estimated cost of proposed training. Before the amendment, the Director and Job Training Council had authority to reduce this percentage under limited circumstances. This rulemaking deletes the section covering exceptions to the 25% requirement.
- Expanding the program to include incumbent worker training and requiring employer contributions for such training to equal 50% of the cost. These rules address incumbent worker training.

This rulemaking:

- Revises the Director's review and final decision process consistent with A.R.S. § 41-2704, which provides that the head of a state governmental unit may resolve a protest of an award and that an appeal may be made to the Director of the Department of Administration. The protest and appeal must be resolved in accordance with rules of procedure adopted by the Director of the Department of Administration (R2-7-901 through R2-7-937).
- Modifies definitions to reflect statutory and other changes in the program and to cover terms appearing in the Article; application content and procedures; eligibility criteria; Statement of Understanding requirements and new or revised submission requirements for invoices, progress reports, and final evaluation forms; monitoring procedures and repayment provisions.
- Specifies the sliding point scale and determination of grant amounts.
- Amends the training plan requirements, selection criteria, and allowable and excluded project costs.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:

Not applicable

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The Arizona Job Training Program was established to provide training for specific employment opportunities with qualified new and expanding businesses and businesses undergoing economic conversion. The Program awards grants to businesses in the form of reimbursement for providing job-specific training to employees. For new jobs, an employer must match at least 25% of the cost of training through contributions of cash in-kind expenditures. For incumbent worker training the required match is 50%.

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During the 2000 Session the legislature modified the program and included enactment of a job training employer tax effective January 1, 2001 (A.R.S. § 23-769). That provision imposes on employers a tax equal to one-tenth of one per cent of taxable wages paid to an employee. The legislature intended that beginning in FY 2001-2002 the program will be funded from monies collected from this tax and that state general fund monies would no longer be appropriated. Program funding from this tax for calendar year 2001 is estimated to be \$12.5 million.

Participation in the training program is entirely voluntary. Most of the program's economic, small business, or consumer impact arises from statutory requirements and limitations rather than from proposed rules. The rules set forth the sliding scale by which points are awarded to applicants and specify how grant amounts are determined based on the sliding scale and legislative intent. Grant amounts will vary depending on employer size (based on number of employees) and on whether the location is rural or urban.

The application process (R20-1-102) imposes minimal costs on each employer in the form of time to complete an application and the provision of required documentation. Some of the documentation is quite detailed, including a training plan, budget and a description of positions to be trained.

The eligibility criteria section implements statutory requirements that training be job-specific, that a business to make a good faith effort to leverage other workforce development programs, and that limit a business to one active grant at any time. Grants may not be used to train temporary, contract, or outsourced personnel. These provisions could have an impact on a business ranging from minimal to significant.

Burden imposed on small business by this rulemaking is not significant and is necessary for effective program implementation. Small businesses may submit progress reports on paper rather than the preferred electronic format.

The Department considered possible methods to reduce impact on small business. Except as discussed in the previous paragraph, no practical alternative methods are available.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Joan Laurence
Address: Arizona Department of Commerce
3800 North Central Ave., Suite #1500
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10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Written comments may be submitted until 5:00 p.m. on June 4, 2001 to the person identified in item 4.

The Department will conduct an oral proceeding on June 4, 2001 at 9:00 a.m. at the following location for the purpose of taking oral and written testimony on the proposed rules from members of the public: Arizona Department of Commerce, 3800 N. Central Ave., Suite #1500, Phoenix, Arizona 85012. (Please call (602) 280-1352 for special accommodations pursuant to the Americans with Disabilities Act.

The public record on the proposed rulemaking will close at 5:00 p.m. on June 4, 2001.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

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CHAPTER 1. DEPARTMENT OF COMMERCE

ARTICLE 1. ~~WORK FORCE RECRUITMENT AND~~ ARIZONA JOB TRAINING PROGRAM

Section

- R20-1-101. Definitions
- R20-1-102. Application Process
- ~~R20-1-103. Determination of Eligibility of a Project~~
- ~~R20-1-104.~~ R20-1-103. Eligibility Criteria
- ~~R20-1-104.~~ R20-1-104. Grant Award Process
- ~~R20-1-105. Multi-year Training Projects~~
- ~~R20-1-106.~~ R20-1-105. Exception to 25% Matching Fund Requirement
- ~~R20-1-107. Training Plan~~
- ~~R20-1-108. Selection Criteria~~
- ~~R20-1-109.~~ R20-1-106. Allowable and Excluded Use of Funds and Reimbursable Project Costs
- ~~R20-1-110. Director's Decision~~
- ~~R20-1-111. Request for Review of Director's Decision~~
- ~~R20-1-112. Response to Request for Review of Director's Decision~~ Repealed
- ~~R20-1-113. Director's Final Determination~~ Repealed
- ~~R20-1-114. Hearing~~ Repealed
- ~~R20-1-115. Notice of Director's Final Determination~~ Repealed
- ~~R20-1-107.~~ R20-1-107. Protest
- ~~R20-1-116.~~ R20-1-108. Statement of Understanding
- ~~R20-1-117.~~ R20-1-109. Invoices and Program Monitoring
- ~~R20-1-118.~~ R20-1-110. Repayment
- ~~R20-1-119.~~ R20-1-111. Final Evaluation Form
- ~~R20-1-120. Final Evaluation Criteria~~ Repealed

ARTICLE 1. ~~WORK FORCE RECRUITMENT AND~~ ARIZONA JOB TRAINING PROGRAM

R20-1-101. Definitions

In this ~~Chapter~~ Article, unless the context otherwise requires:

1. "Applicant" means ~~a business seeking financial assistance from the Program~~ an employer submitting an application to the Department for a grant under the Program.
2. "Cluster industries" means the same as in A.R.S. § 41-1543(8).
3. "Concentrations of firms across several industries" as used in A.R.S. § 41-1543(8) means a group of interdependent business entities that do business with each other and the firms that supply raw materials, components, and services to them.
- ~~24.~~ "Council" means the ~~Work Force Recruitment and~~ Arizona Job Training Council.
- ~~35.~~ "Corporate headquarters" means ~~an~~ the administrative center for a business.
- ~~6.~~ "Department" means ~~the~~ Arizona Department of Commerce.
- ~~7.~~ "Director" means ~~the~~ Director of the Arizona Department of Commerce.
- ~~4.~~ "Disadvantaged area" means ~~an enterprise zone, an enterprise community, an empowerment zone, or a census tract where the average unemployment rate is 150% of the average annual statewide unemployment rate or the poverty rate in the area is at least 150% of the statewide poverty rate as determined by the most recent published Arizona Department of Economic Security statistics.~~
- ~~58.~~ "Economic conversion" or "EC" means ~~market-driven changes made by a business in the way it produces and sells its major products and services, or in its target markets or basic technology. Such changes fundamentally alter the way the business operates or the nature of the business. Economic conversion is due mainly to structural changes in the economy or in the business' industry sector. the process through which a business changes its income base from dependence on defense contracts to other sources of revenue.~~
9. "Economic foundation needs" as used in A.R.S. § 41-1543(8) means the environmental factors that allow an industry to prosper and include capital resources, human resources, information and communication infrastructure, physical infrastructure, quality of life in the state, tax and regulation, and technology.
- ~~10.~~ "Economically depressed area" means an "Enterprise Zone."
- ~~6.~~ "Empowerment Zone" means ~~an area the Federal Government designates under Public Law 103-66 to provide incentives for a business to locate within the zone's boundaries.~~

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7. "Enterprise Community" means an area the Federal Government designates under Public Law 103-66 to provide incentives for a business to locate within the community's boundaries.
11. "Employer" means an Arizona entity with a unique Federal Employer Identification Number (FEIN).
812. "Enterprise Zone" means an area established under A.R.S. § 41-1552 to provide incentives for a business an employer to locate within the zone's boundaries.
13. "Equipment" includes computer hardware and software.
9. "Fiscal year" means a year that begins on July 1 and ends on June 30.
10. "Full benefit package" means a group of employment incentives offered to employees that includes group medical and dental coverage, disability, and a retirement plan regardless of whether the employer subsidizes the cost of such a package.
11. "Good cause" means a delay caused by circumstances beyond the control of the party requesting an extension of time.
14. "Grant" means funds set aside by the Department for an employer as reimbursement for allowable Project costs.
12. "GSPED" means the Governor's Strategic Partnership for Economic Development.
13. "GSPED Cluster" means an industry category identified by the GSPED. A cluster is a concentration of firms across several industries that share common economic foundation needs.
1415. "Health care plan" means group medical coverage provided for an employees employee by the employer regardless of whether the employer subsidizes the cost of such a package.
16. "Hourly employee" means an employee compensated based on number of hours worked.
17. "Incumbent employee" means a full-time or part-time employee who works for an employer before the submission date of the job training application for whom training funds are requested.
18. "In-kind expenditure" means a non-cash expense incurred in training provided under the Program, including:
a. Goods;
b. Services;
c. Technical assistance;
d. Machinery;
e. Tools;
f. Equipment; and
g. Training space.
19. "Management fee" means an employer's cost for grant administration.
20. "Micro-business" means an employer with fewer than 26 employees including employees projected to be hired under the Program.
15. Minority-owned business" means a business at least 51% owned and operated by 1 or more citizens of the United States who are designated a minority or socially disadvantaged as defined by 13 CFR 124.105(b).
16. "Modified average county wage" means 80% of the total wages in a county divided by the number of employed persons in that county as reported by the Department of Economic Security.
17. "Monitoring" means tracking the applicant's execution of an approved project.
18. "Multi-year training project" means a project that spans 24 or more consecutive months.
1921. "Net new jobs" means total number of filled employment positions created after award of program assistance which qualify under the Program at the end of the Project in excess of the positions listed on the employer's payroll at the time the Statement of Understanding is signed by the Director.
2022. "New Job job" means an employment position in a new or expanding business or in a business undergoing economic conversion created after award of program assistance which the Statement of Understanding is executed that qualifies under for the Program. This does not include the jobs of recalled workers, replacement jobs, other jobs that formerly existed in the business at any of its locations, or any job that existed in that business during the 6-month period prior to the date the business submits an application for assistance from the Program.
23. "On-the-job training" means training by the employer's employee while the employee performs regular job activities and the trainee:
a. Observes;
b. Assists;
c. Receives instruction; or
d. Performs job activities under supervision.
24. "Part-time job" means a position that is less than 30 hours per week.
25. "Plan" or "training plan" means an employer's written training plan submitted to the Department.
2126. "Program" means the ~~Work Force Recruitment and~~ Arizona Job Training Program.
22. "Program assistance" means financial assistance provided under the Program, covering costs related to job training assistance.
23. "Program Manager" means the individual designated by the Director as responsible for managing the Program.

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2427. "Project" means a specific, customized training ~~project effort~~ established as a result of an agreement between a training provider and a business for the purpose of providing under this Article for an employer to provide training services authorized by the Program and proposed for ~~program assistance by the applicant~~ a grant.
28. "Project start date" means the date the Director signs the Statement of Understanding.
29. "Qualified training provider" means an educational institution listed in A.R.S. § 41-1541(F) and an individual or entity, including the employer, who has a written statement from the employer attesting to the trainer's competence to provide job training for job-specific skills.
25. "Remedial education" means instruction in basic skills such as reading, writing, and arithmetic not directly related to the performance of a given job.
26. "Resources" means cash or non-monetary contributions used to offset eligible costs of the project which may include personnel, equipment, and materials, among others.
2730. "Rural area" means any location in any Arizona county except the counties of Pima and Maricopa. Within Maricopa and Pima counties, a rural area is any location within an unincorporated area, or any location inside the incorporated limits of a city or town having a population of less than 20,000 persons as determined by the most recent decennial or special census, whichever is more recent. means the same as in A.R.S. § 41-1544(I).
31. "Salaried employee" means a person compensated at a fixed weekly, monthly, or annual amount not calculated from number of hours worked.
32. "Site visit" means a Department inspection of the location where the qualified training provider conducts job training.
28. "Statement of Understanding" means a document signed by the Director and all parties involved in a project approved for program assistance, specifying the scope of the work to be performed, the roles and contributions of each of the parties, and the final dollar amount of the grant.
2933. "Training" means job skill instruction including on-the-job training or classroom training given to trainees by training providers either on-the-job, in a classroom, or any combination thereof, sponsored by a business/employer and funded through the Program and intended to provide the trainees employee with the specific skills required to perform a specified jobs job.
30. "Training plan" means the Work Force Recruitment and Job Training Plan.
31. "Training provider" means a person or organization that provides recruitment services, training design, development of materials, training as described in the training plan, or management of project or accounts.
3234. "Urban area" means any area not considered to be defined as a rural area.
33. "Women-owned business" means a business at which 51% or more of the ownership is by 1 or more women.

R20-1-102. Application Process

- A.** A business and/or training provider interested in obtaining program assistance shall contact the Department to request an application or to request a pre-application conference.
- BA.** Application. The applicant employer shall submit a completed application obtained from the Department ~~form~~ containing the following information, as applicable:
1. Business Employer name, address, telephone number, facsimile number, and electronic mail address;
 2. Name of each person with authority to execute documents that bind the employer;
 3. Local contact person's name and title;
 24. Federal identification number FEIN;
 35. North American Industry Classification System (NAICS) or Standard Industrial Code Classification (SIC);
 6. Description of the business or service provided;
 47. Parent Company company name and address;
 58. Business Parent company contact person, and phone telephone number, and facsimile number;
 9. Parent company's FEIN, if different from the employer's FEIN;
 10. Whether employer is:
 - a. An existing business;
 - b. The corporate headquarters of the business;
 - c. Located in an Enterprise Zone; and
 - d. Located in a rural or urban area;
 6. Description of business and business ownership;
 7. Reason for creation of new jobs;
 8. Products and services produced at the facility at which the new jobs would be located;
 911. Number of current employees including parent business if FEIN is the same;
 12. Whether company has undergone lay-offs or reductions-in-force in Arizona within the 24 months preceding the application date, and if applicable:
 - a. Date; and
 - b. Number and type of positions reduced;
 40. Number of new and part-time jobs to be created;

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11. Wage and benefit information;
12. Amounts the business has spent for training salaried employees and for employees compensated on an hourly basis in each of the prior 3 years;
13. Industry groups to which the business belongs;
14. Numbers of individuals from the local Arizona labor force and outside the local labor force the business employer plans to ~~train and~~ hire and train;
14. Estimated number of full-time and part-time:
 - a. Net new job positions to be filled and trained; and
 - b. Incumbent worker or economic conversion employees to be trained;
15. If the employer provides health insurance benefits to employees, the following information:
 - a. Percentage of premium paid by employer; and
 - b. A copy of the health insurance plan;
16. Benefits, other than health insurance, provided to employees and percentage paid by employer;
17. Cluster industry in which the employer participates;
15. Business' policy on affirmative action;
16. Estimated cost of training;
17. Amount of program assistance requested;
18. Anticipated training start date;
19. Anticipated completion date for training project;
20. Number of new employees to be trained;
21. Number of existing employees to be trained;
22. Estimated number of trainees eligible under the Job Training Partnership Act;
18. Total estimated training cost;
19. The name, contact person, address, and telephone number of the qualified training provider;
23. Why the business' training needs require a customized training approach;
24. Description of the needed recruitment and/or training;
25. Name of provider of customized training;
26. Description of the business' need for employee training;
27. Anticipated outcomes of the training to be provided;
20. Description of employer's need for employee training;
21. Description of:
 - a. Other training assistance in effect at time of application; or
 - b. Effort to obtain other training assistance during the 3 months before submission of application;
22. A statement signed and dated by the employer's chief executive officer, attesting that the employer:
 - a. Agrees to maintain or increase its current level of expenditures for training, excluding the Program funds;
 - b. Is paying into the Arizona Job Training Fund under A.R.S. § 41-1544;
 - c. Has read the:
 - i. Application;
 - ii. Program Introduction;
 - iii. Guidelines; and
 - iv. Criteria; and
 - d. Verifies that statements and representations in the application and supporting documents are accurate and complete;
 - e. Acknowledges that the Department reserves the right to request:
 - i. Financial information from the employer; and
 - ii. Additional information regarding the employer's lay-offs or reductions-in-force;
28. How the business will contribute 25% of the total eligible training project costs;
29. Other funding sources for the training;
30. Training cost per employee, based on the request for program assistance;
31. Names, numbers, and average hourly wages for the job positions to be trained;
32. Financial statements for at least the 2 calendar years prior to the date of the filing of the application, and for 3 years if they are available, and an interim statement for the duration of current year including the calendar quarter immediately preceding the filing of the application. These financial statements shall include all profit and debt schedules prepared according to generally accepted accounting principles;
33. Letters of commitment for business' matching funds and others participating in the funding of the training;
34. Training plan designed by the business and the training provider;
35. Training project budget showing the sources and uses of all resources associated with the project;
36. If the Applicant is undergoing economic conversion, a description of the circumstances contributing to the economic conversion and a general plan for new market development.

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B. In addition to an application form, a completed application package shall include:

1. A written training plan that specifies how the qualified training provider will train the employees to perform job-specific duties or skills.
2. For net new employees to be hired and trained, and incumbent workers or economic conversion employees to be trained, a list of positions including:
 - a. Name of each employee, if known;
 - b. Wage before training; and
 - c. Wage after training; and
3. A training budget that includes the employer's:
 - a. Training costs for all employees to be included in the Project;
 - b. Additional allowable costs under R20-1-106; and
 - c. Other resources that the employer proposes to use for training and specification of cash or in-kind expenditures to meet requirements of A.R.S. § 41-1541.

C. Time-frames. The Department shall:

1. Approve or deny a complete application package within 30 days of receipt; and
2. Notify the employer in writing whether the application is approved or denied, including:
 - a. If approved, amount of grant; and
 - b. If denied, the reason for denial.

~~R20-1-103.~~ **Determination of Eligibility of a Project**

- ~~**A.** The Department determines eligibility of a project by an analysis of information included in an application.~~
- ~~**B.** An applicant may contact the Department to set up a pre-application conference either in person or through teleconference. At this conference, the applicant may request information on program assistance, the application process, and eligibility criteria.~~
- ~~**C.** If the Department determines the applicant is not eligible, the Department shall send a denial letter to the applicant and, if known, the training provider within 30 days of the determination.~~
- ~~**D.** The Department cannot guarantee program assistance for an application that meets the eligibility criteria.~~

~~R20-1-104.~~ R20-1-103. **Eligibility Criteria**

~~The Department shall determine whether if a project Project is eligible for program assistance a grant using the following eligibility criteria. The employer:~~

1. ~~The applicant is operational for at least the 2 years prior to application as shown in financial records. Pays its employees as required under A.R.S. § 41-1543;~~
2. ~~The applicant documents that it has obtained or attempted to obtain other training assistance. Is paying into the Arizona Job Training Fund at time of application;~~
3. ~~The applicant is financially sound as documented in financial statements.~~
4. ~~The applicant is expanding and adding net new jobs, undergoing economic conversion, or locating to Arizona from outside the state.~~
5. ~~An applicant that currently has a facility in Arizona proposes to use program assistance to support training activities for new employees at levels that exceed the current level of training expenditures.~~
6. ~~The applicant applies only once in a fiscal year.~~
7. ~~The applicant achieves a total of at least 75 points of the Program's "Sliding Scale". This scale assigns points as follows:~~
 - a. ~~25 points for a rural or disadvantaged area, 10 points for an urban area that is not disadvantaged;~~
 - b. ~~25 points for a GSPED cluster industry, manufacturing, warehouse distribution, newly established corporate headquarters, or research and development facility;~~
 - c. ~~40 points if the average wage of the net new employees is 160% or more of the modified average county wage, 30 points if it is 140% or more but less than 159%, 20 points if it is 120% or more but less than 139%, 10 points if it is 100% or more but less than 119%.~~
 - d. ~~For a business expansion or an economic conversion: 25 points if the number of the new jobs created would be 41% or more of the existing employee base, 20 points if it is 31% or more but less than 41%, 15 points if it is 21% or more but less than 30%, 10 points if it is 11% or more but less than 20%, and 5 points if it is 10% or less;~~
 - e. ~~For a new business in the state with 100 or more employees on the company-wide payroll: 45 points for 1001 or more new jobs, 40 points for 801 new jobs or more but less than 1001 new jobs, 35 points for 601 new jobs or more but less than 801 new jobs, 30 points for 401 new jobs or more but less than 601 new jobs, 25 points for 201 new jobs or more but less than 401 new jobs, 20 points for 101 new jobs or more but less than 201 new jobs, and 10 points for 100 or fewer new jobs;~~

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- f. For a new business in the state with fewer than 100 employees on the company-wide payroll: 30 points if 81 to 100 new jobs would be created, 25 points for 61 new jobs or more but less than 81 new jobs, 20 points for 41 new jobs or more but less than 61 new jobs, 15 points for 21 new jobs or more but less than 41 new jobs, and 10 points for 20 or fewer new jobs; and
- g. 15 points if the applicant provides a health care plan, and 0 points if the applicant does not provide a health care plan;
- 3. Documents that at the time of the application it has obtained or attempted to obtain other training assistance; and
- 4. Is adding net new jobs in Arizona; or
- 5. Is providing training under the Program for incumbent workers; or
- 6. Is undergoing economic conversion.

R20-1-104. Grant Award Process

A. Funding

- 1. Except as specified in A.R.S. § 41-1544, funding of a grant for an eligible employer shall be on a first-come, first-serve basis, based on the date the Department receives the employer's completed application package specified in R20-1-102 and if uncommitted funds remain in the Arizona Job Training Fund.
- 2. Submission of an application that meets eligibility criteria shall not guarantee grant funding.
- 3. The maximum amount of any Program grant is specified in A.R.S. § 41-1544(H).
- 4. The Department shall not award any Program grant in an amount greater than that stated on the employer's training budget.
- 5. The Department shall base the amount of the grant on the employer's sliding scale score and calculate it based on the number of employees to be trained.

B. Per Employee Grant Amount Range

- 1. New Worker Training
 - a. For an employer with 300 or more employees:
 - i. Located in an urban area: \$2,000 to \$5,000; and
 - ii. Located in a rural area or an Enterprise Zone: \$3,000 to \$6,000;
 - b. For an employer with fewer than 300 employees: \$3,000 to \$6,000; and
 - c. For a micro-business employer: \$4,000 to \$7,000.
- 2. Incumbent Worker Training
 - a. For an employer with 300 or more employees:
 - i. Located in an urban area: \$1,500 to \$3,750; and
 - ii. Located in a rural area or an Enterprise Zone: \$2,250 to \$4,500;
 - b. For an employer with fewer than 300 employees: \$2,250 to \$4,500; and
 - c. For a micro-business employer: \$3,000 to \$5,250.
- 3. Economic Conversion Training: \$2,000 to \$5,000.

C. Sliding Scale For Grant Amount Calculation

The Department shall assign points based on the following factors (percentage calculations and fractional numbers are rounded to the nearest whole number).

- 1. Industry or facility type: An employer may receive 20 points under only 1 of the following:
 - a. Cluster industry including:
 - i. Bioindustry;
 - ii. Environmental technology;
 - iii. Food, fiber, and natural products;
 - iv. Minerals and mining;
 - v. High technology;
 - vi. Optics, plastics, and advanced composite materials;
 - vii. Senior industries;
 - viii. Software and information industry;
 - ix. Tourism;
 - x. Transportation and distribution; or
 - xi. Participates in another cluster as defined by A.R.S. § 41-1543(8) and this Article; or
 - b. Corporate headquarters; or
 - c. Research and development facility;
- 2. Wage level: Average wage level of new jobs relative to qualifying wage threshold as specified in ARS § 41-1543(3) (an employer receiving points under this subsection is not eligible for points under subsection (3)):
 - a. 10 points if 100% to 105%;
 - b. 30 points if 106% to 110%;
 - c. 40 points if 111% to 120%;

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- d. 50 points if 121% to 130%; and
 - e. 60 points if 130% or greater;
 - 3. Incumbent worker or EC positions: For an employer providing incumbent worker or EC training, percentage of average pay increase for incumbent workers to be trained (an employer receiving points under this subsection is not eligible for points under subsection (2)):
 - a. 10 points if 5% or less;
 - b. 30 points if 6% to 10%;
 - c. 40 points if 11% to 15%;
 - d. 50 points if 16% to 20%; and
 - e. 60 points if 21% or greater;
 - 4. Economic conversion positions: For an employer undergoing economic conversion (EC), number of positions to be trained under a grant, based on the formula: number of EC jobs created divided by number of employees on application date equals X% (an employer receiving points under this subsection is not eligible for points under subsections (5) or (6)):
 - a. 10 points if 10% or less;
 - b. 20 points if 11% to 20%;
 - c. 30 points if 21% to 30%;
 - d. 40 points if 31% to 40%; and
 - e. 50 points if 41% or greater;
 - 5. Large employer positions: For an employer with 300 or more employees, the number of new jobs to be created (an employer receiving points under this subsection is not eligible for points under subsections (4) or (6)):
 - a. 10 points if 100 or fewer jobs;
 - b. 20 points if 101 to 200 jobs;
 - c. 30 points if 201 to 300 jobs;
 - d. 40 points if 301 to 400 jobs; and
 - e. 50 points if 401 or more jobs;
 - 6. Small employer positions: For an employer with fewer than 300 employees, the number of new jobs to be created (an employer receiving points under this subsection is not eligible for points under subsections (4) or (5)):
 - a. 10 points if 10 or fewer jobs;
 - b. 20 points if 11 to 20 jobs;
 - c. 30 points if 21 to 30 jobs;
 - d. 40 points if 31 to 40 jobs; and
 - e. 50 points if 41 or more jobs;
 - 7. Benefits: 20 points if the employer:
 - a. Provides a health care plan; and
 - b. Pays at least 50% of the plan cost; and
 - 8. Lay-offs or reductions-in-force: For an employer who has undergone lay-offs or reductions-in-force during the 24 months preceding the application date, the percentage of positions reduced:
 - a. -10 points for less than 10%;
 - b. -20 points for 11% to 20%;
 - c. -30 points for 21% to 30%;
 - d. -40 points for 31% to 40%; and
 - e. -50 points for 41% or more.
- D. Minimum Points and Grant Amount**
- 1. New Worker Training:
 - a. The Department shall award the minimum per employee grant amount specified in this Section to an employer with at least a 10 point score.
 - b. The Department shall increase the per employee grant amount by \$21.43 for every point greater than the 10 point minimum.
 - 2. Incumbent Worker Training:
 - a. The Department shall award the minimum per employee grant amount as specified in this Section to an employer with at least a 10 point score.
 - b. The Department shall increase the per employee grant amount by \$16.07 for every point greater than the 10 point minimum.
 - 3. Economic Conversion:
 - a. The Department shall award the minimum per employee grant amount as specified in this Section to an employer with at least a 10 point score.
 - b. The Department shall increase the per employee grant amount by \$21.43 for every point greater than the 10 point minimum.

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~~R20-1-105. Multi-year Training Projects~~

An applicant with a multi-year training project may be eligible for program assistance if the applicant meets the eligibility criteria. Funding in future years is subject to the availability of funds and the Department's determination that applicant meets eligibility criteria as defined in R20-1-104 as well as the requirements of its training plan as defined in R20-1-107.

~~R20-1-106 R20-1-105. Exception to 25% Matching Fund Requirement~~

The Council and Director shall waive the requirement to contribute 25% of the eligible training costs as specified by A.R.S. § 41-1541(C) if a project meets all of the following criteria, as documented by the applicant in the application:

1. It provides a full benefit package for all employees;
2. It falls within 1 of the following categories:
 - a. A GSPED cluster industry;
 - b. Manufacturing or warehouse/distribution;
 - c. Newly established corporate headquarters; or
 - d. Research and development facility;
3. It locates within a rural or disadvantaged area of the state; and
4. It will provide wages equal to at least 2 times the modified average county wage.

A. Except as specified in subsection (B), an employer shall provide at least 25% of the cost of Project training with cash or in-kind expenditures.

B. An employer receiving funding for incumbent worker training shall provide at least 50% of the cost of Project training with cash or in-kind expenditures.

C. An employer shall not use the following as matching funds:

1. Grant management fees;
2. Costs associated with recruitment or hiring of employees;
3. Employee wages or fringe benefits; and
4. Grant funds.

~~R20-1-107. Training Plan~~

~~A. An applicant that the Department determines to be eligible for program assistance shall develop a training plan with the training provider.~~

~~B. The training plan outlines the use of the program assistance and shall include but not be limited to the following:~~

1. ~~Description of design and analysis of training program;~~
2. ~~Development of training materials;~~
3. ~~Scope of work to be performed;~~
4. ~~Cost of training program;~~
5. ~~Timeline for the entire recruitment and training program;~~
6. ~~Recruitment plan;~~
7. ~~Curriculum with description of classes and class schedule;~~
8. ~~Number of employees to be trained in each class; and~~
9. ~~Cost of each class.~~

~~R20-1-108. Selection Criteria~~

~~A. Final approval of program assistance for applicants determined to be eligible under these rules is based upon the specific selection criteria in A.R.S. § 41-1543 and the following:~~

1. ~~Number of net new jobs created;~~
2. ~~Cost of recruitment and/or training;~~
3. ~~Financial soundness of the applicant;~~
4. ~~Training and job opportunities created for special target groups such as the disabled, dislocated workers, chronically unemployed, veterans, women, and minorities;~~
5. ~~Written indications of community support; and~~
6. ~~Amount of matching resources contributed by the applicant to the training project.~~

~~B. In selecting eligible projects to recommend for program assistance, the Department gives preference to an applicant that is:~~

1. ~~A first-time applicant to the Program;~~
2. ~~Included within a GSPED cluster;~~
3. ~~Located in a disadvantaged area; or~~
4. ~~A women and/or minority-owned business.~~

~~C. To assure the Program assesses both urban and rural economic interests as required by A.R.S. § 41-1542(C)(4), the Department gives preference to applicants located in rural areas.~~

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R20-1-109. R20-1-106. Allowable and Excluded Use of Funds and Reimbursable Project Costs

- A.** The grant shall only be used for job-specific training.
- B.** An employer shall use grant funds:
1. To train new employees at a level that maintains or exceeds the level of the employer's training expenditures as of the application date, excluding grant funds; and
 2. To supplement, not replace, the employer's existing training expenditures.
- C.** An employer shall not simultaneously have more than 1 active Program grant.
- D.** An employer shall not use Program funds to train full-time or part-time employees who are:
1. Temporary;
 2. Contract; or
 3. Out-sourced.
- A.E.** Project costs for recruitment, screening of trainees for the training program, and training for jobs being created are eligible for program assistance under the Program. These Costs eligible for the Program grant shall be listed in the employer's written training plan and may include the following:
1. Classified recruitment ads;
 2. Information dissemination at a career or job fair;
 3. Applicant intake costs such as taking applications;
 4. Clerical functions directly related to the project;
 5. Providing office space directly related to data base system and services;
 6. Assessments of potential employees;
 7. Pre-interview training of personnel and interview evaluation;
 8. Scheduling of interviews with applicant's representatives;
 9. Training program design and development;
 10. Training material design;
 11. Training materials material purchase and production;
 12. Training support materials;
 13. Leased equipment essential for customized training;
 14. Trainer Qualified training provider costs fees;
 15. Project management/administrative and support costs; and
 16. Travel that is less than or equal to cost not to exceed 10% of the grant, excluding food and beverage, as specified in the training plan and budget:
 - a. For a qualified training provider brought on-site to train employees, 10% of the total eligible training costs; and
 - b. For employees, not to exceed 50% of the actual cost; and
5. On-the-job training costs, including:
- a. The portion of the base salary or wage, not to exceed 25%, paid to the employee who provides on-the-job training to the trainee; or
 - b. If the employer documents that the productivity of the employee who provides on-the-job training is decreased by more than 25% as the direct result of providing training, the documented greater amount of the base salary or wage.
- B.F.** Project costs that are not eligible include trainee wages and fringe benefits, and remedial education training. The following costs are not eligible for Program grant funds:
1. Employee wages or fringe benefits;
 2. Employer's cost to complete a Program application;
 3. Time, stress, or life management training classes;
 4. Employee recruitment expense;
 5. Employee hiring expense;
 6. Grant management fees;
 7. Training for an employer officer or partner;
 8. Signing bonus;
 9. Food and beverage;
 10. Equipment or machinery;
 11. Employee search expense;
 12. Relocation expense;
 13. Drug or other testing associated with screening and prescreening of an employee; and
 14. Travel expense other than training expense eligible under subsection (A);
- G.** An employer shall not contract for or incur a cost to be covered by a Program grant before the Program start date.

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R20-1-110. Director's Decision

- A.** Within 60 days of receipt by the Department of a complete application submittal including the training plan and final budget, the Program Manager shall recommend to the Director either an approval with recommended program assistance level or decline of program assistance.
- B.** The Director makes the final decision approving or declining program assistance for a project and the funding level of the program assistance.
- C.** The Director shall base the funding level on the results of applying the selection criteria, the applicant's request, the contents of the training plan submitted under R20-1-107, the award levels of similar projects funded, and the availability of funds.
- D.** Within 30 days of the Director's decision, the Department shall notify an applicant in writing whether the project was approved for program assistance.

R20-1-111. Request for Review of Director's Decision

- A.** Any applicant dissatisfied with determinations of eligibility or program assistance decisions may request a review of the Director's decision.
- B.** An applicant seeking review of any decision concerning eligibility or program assistance shall submit a request in writing, addressed to the Director, that includes the following information:
 - 1. Name, address, and telephone number of the applicant;
 - 2. The signature of the applicant or its representative;
 - 3. Identification of the Director's decision requested for review;
 - 4. A detailed statement of the legal and factual grounds for the review including copies of relevant documents; and
 - 5. The form of relief requested.
- C.** An applicant shall file a request for a review within 15 days of receipt of notification by the Department of a determination of ineligibility or a funding award. If the applicant shows good cause, the Director may consider a request for review not filed timely.

R20-1-112. Response to Request for Review of Director's Decision Repealed

- A.** The Program Manager shall provide a written report addressing the request for review to the Director within 15 days of the receipt of the request by the Director. The report shall contain documents, findings, actions, recommendations, and any additional evidence or information necessary to determine the validity of the request.
- B.** Upon receipt of the Program Manager's report by the Director, the Director shall send a copy of the report to the applicant.
- C.** Within 15 days of the applicant's receipt of the Program Manager's report, the applicant shall file with the Director 2 copies of an applicant's report containing comments on the Program Manager's report.
- D.** The Director may grant to either the Program Manager or to the applicant an extension up to 30 days for the completion and submittal of either report. The Director shall grant an extension if the party requesting the extension makes the request in writing, describes the reason for the extension, and demonstrates good cause for needing the extension.

R20-1-113. Director's Final Determination Repealed

Within 30 days of the receipt by the Director of an applicant's report containing comments on the Program Manager's report, the Director shall:

- 1. Request additional information;
- 2. Hold a hearing or authorize an independent hearing officer to hold a hearing to consider the relevant facts. The hearing officer shall make written recommendations to the Director. The Director may accept, modify, or reject the written recommendations or may hold a hearing at which the Director may preside;
- 3. Adopt the Program Manager's report;
- 4. Develop a new report which includes the Director's findings and a written decision; or
- 5. Dismiss, upon a written determination, a request if the request does not state a valid basis for the Director to change the decision.

R20-1-114. Hearing Repealed

A hearing on the review of a Director's decision shall be conducted as a contested case pursuant to these rules and the Arizona Administrative Procedure Act.

R20-1-115. Notice of Director's Final Determination Repealed

The Director shall furnish a copy of the Director's final determination to the applicant by certified mail. The final determination shall contain an explanation of the basis of the decision and a statement that the decision may be appealed to Superior Court.

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R20-1-107. Protest

- A.** An interested party may, under A.R.S. § 41-2704, file a protest of a determination of:
1. Award of a grant;
 2. The amount of the grant;
 3. Termination of a grant; or
 4. Repayment.
- B.** The Director shall resolve protests under subsection (A).
- C.** An interested party may appeal the Director's resolution of a protest to the Director of the Department of Administration.
- D.** A protest under this Section shall be filed, processed, and resolved according to the rules of procedure contained in 2 A.A.C. 7, Article 9.

R20-1-116. R20-1-108. Statement of Understanding

~~The Department shall send an applicant approved for program assistance a Statement of Understanding that must be signed and returned to the Department within 20 days.~~

- A.** For an approved application, the Department shall prepare and provide to the applicant a Statement of Understanding (SOU) specifying:
1. Terms and conditions of the grant award;
 2. That the Project shall not exceed 24 months from Project start date;
 3. Responsibilities of each party; and
 4. Amount of grant and amount of employer's cash or in-kind expenditure requirement.
- B.** The employer shall within 30 days after receipt of the SOU:
1. Sign the SOU; and
 2. Return the original SOU and a completed W-9 federal tax form to the Department.
- C.** The Department may extend the time under subsection (B), if the Department receives a written request for an extension during the 30 day period under subsection (B).
- D.** If an employer fails to comply with the time-frame required under subsection (B) or as extended under subsection (C), the employer shall reapply for a Program grant under this Article.
- E.** An employer may request a modification of the SOU, and the Department may approve the request, if the request:
1. Is submitted to the Department in writing at least 30 days before the modification implementation date;
 2. Specifies good cause; and
 3. Is consistent with the training plan as originally approved.
- F.** The Department shall not reimburse an employer for costs or obligations incurred before the Project start date or before a modification approval date.

R20-1-117. R20-1-109. Invoices and Program Monitoring

- ~~**A.** A recipient of program assistance shall submit an invoice for reimbursement every 3 months with a progress report describing specific work that has been done for the time period as identified in the training plan and the application. The Program Manager shall conduct a scheduled site visit at least once during the project.~~

A. Filing Requirements

1. The employer shall file progress reports and Unemployment Tax and Wage Reports (UC-018) with the Department on a quarterly basis.
 2. An employer shall submit the initial progress report and any related paid invoices for reimbursement to the Department within 120 days after the Project start date. The Department shall extend the initial reporting period for 30 days for good cause if the Department receives a written request for an extension within the 120 days after the Project start date.
 3. An employer shall submit subsequent progress reports and paid invoices for reimbursement at least every 3 months, even if no training activity has occurred.
 4. An employer shall submit all invoices and requests for reimbursement within 3 months of the:
 - a. Date the expense is invoiced; or
 - b. Completion of the Project.
 5. The employer is subject to a scheduled site visit at least once during, or after the Project.
- B.** At the termination of the project, the recipient of program assistance shall provide the Department with a report describing jobs created, training conducted, project training dates, wages for newly hired personnel, benefits provided, demographic background of new hires, and discrepancies between the submitted application and the completed training project.
- B. Progress Reports and Invoices**
1. An employer shall submit the progress report on a spreadsheet, other electronic media, or a form provided by, or approved by, the Department. The report shall list:
 - a. Specific training completed during time covered by the report;
 - b. Net new jobs created;

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- c. Number of new employees trained;
- d. Number of incumbent workers trained;
- e. Number of EC employees trained;
- f. For each employee trained under the grant:
 - i. Name;
 - ii. Social Security number;
 - iii. Position title;
 - iv. Actual hourly wage with and without health or fringe benefits;
 - v. Hire date; and
 - vi. Termination date, if any; and
- g. Racial and ethnic background.
- 2. An employer requesting grant reimbursement for an outside vendor shall submit to the Department a copy of the outside vendor's invoice detailing the training service provided or product purchased.
- 3. An employer requesting grant reimbursement for training or products not provided by an outside vendor shall submit:
 - a. A detailed description of the expense; and
 - b. An explanation of how cost was determined and calculated.
- 4. A request for grant reimbursement shall:
 - a. Be in the approved training budget;
 - b. Be acknowledged by the employer, in writing, as representing an accurate accounting of incurred expenses; and
 - c. Be accompanied by evidence that the required match has been contributed by or for the employer.
- 5. An employer shall submit with each invoice and request for reimbursement its most recent Unemployment Tax and Wage Report (UC-018).

C. Disbursements

A quarterly grant disbursement to an employer shall be directly proportionate to the number of net new jobs the employer filled and trained under the grant and the number of incumbent workers or EC employees trained under the grant. The Department may, upon the employer's written request filed with the invoices and progress reports required under subsection (B), disburse an additional amount for training start-up costs, not to exceed 10% of the total grant.

~~R20-1-118.~~ R20-1-110. Repayment

The Department shall require a recipient of program assistance that fails to meet the requirements, as established in the recipient's training plan and delineated in the recipient's application, to return all of the program funds if 85% of new jobs are not created during the established timeframe. If more than 85% but less than 100% of new jobs are created, the company will return funds on a prorated bases.

- A.** Final grant distribution shall be based on the employer's performance of the terms and conditions of the SOU. If these are not met, the final distribution shall be reduced based on the employer's actual performance.
- B.** Any difference between the SOU amount and final grant amount calculated under subsection (A) shall:
 - 1. Not be disbursed; or
 - 2. Be repaid by the employer.
- C.** An employer shall make repayment within 30 days after receipt of the Department's written request.

~~R20-1-119.~~ R20-1-111. Final Evaluation Form

- A.** Each recipient of program assistance ~~Unless an earlier submission is required under subsection (E), an employer shall complete a final evaluation form~~ Final Evaluation Form at the completion of its project: within 3 months after training or SOU completion date and before final grant disbursement. This form shall consist of ~~The form shall include the following:~~
 - 1. Business, name, address, phone, FAX number, and contact person;
 - 2. Estimated number of new full-time and part-time jobs to be created according to the recipient's original application;
 - 3. Actual number of new full-time and part-time jobs created;
 - 4. Explanation of any discrepancy between the estimated number of new jobs on the application and the actual number of new jobs created;
 - 5. Estimated number of trainees eligible under the Job Training Partnership Act according to the application;
 - 6. Actual number of trainees eligible under the Job Training Partnership Act who were hired;
 - 7. Number of applications reviewed;
 - 8. Number of interviews conducted;
 - 9. Estimated number of new hires to be trained according to the application;
 - 10. Actual number of new hires who completed training;
 - 11. Explanation of any discrepancy between the estimated number of new hires on the application and the actual number of new hires who completed training;
 - 12. Anticipated dates for start and completion of training according to the application;

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- ~~13. Actual dates for start and completion of training;~~
- ~~14. Explanation for any discrepancy in the anticipated and actual dates for the start and completion of training;~~
- ~~15. Amount of the grant that was awarded to the business;~~
- ~~16. Amount of grant dispersed to the business to date;~~
- ~~17. List of new hires, indicating job title and average hourly wage including benefits;~~
- ~~18. Information on benefits offered to employees;~~
- ~~19. Explanation of any discrepancies in submitted application and completed training project;~~
- ~~20. Documentation of efforts to leverage other training resources, according to A.R.S. § 41-1542(D);~~
- ~~21. Information on demographic background of new hires (including racial and ethnic background, age, gender, and veteran or handicap status) according to A.R.S. § 41-1542(D):~~
 1. Date;
 2. Employer name, address, telephone number, facsimile number, and electronic mail address;
 3. Contact person;
 4. Number of Arizona employees at Project start date;
 5. Number of net new full-time and part-time positions the employer agreed to hire and train and average hourly wage for the positions;
 6. Number of incumbent workers the employer agreed to train and average hourly wage for the positions;
 7. Number of EC workers the employer agreed to train and average hourly wage for the positions;
 8. Actual number of full-time and part-time positions filled and trained under the grant;
 9. Actual number of incumbent workers trained under the grant;
 10. Actual number of EC employees trained under the grant; and
 11. Actual start and completion dates for training.
- B.** The employer shall attach a list of new employees hired and trained and of incumbent workers and EC workers trained under the Project from Project start date through Project end date, indicating for each employee, if applicable:
 1. Hire date;
 2. Termination date;
 3. Name;
 4. Social Security number;
 5. Job title;
 6. Actual hourly wage or salary, calculated with and without health and fringe benefits; and
 7. Racial and ethnic background.
- C.** The employer shall attach documentation of efforts to obtain other training resources if the efforts are not as described in the application.
- D.** The employer's chief executive officer or highest-ranking site official shall verify that the statements and representations in the Final Evaluation Form and supporting documentation are accurate and complete.
- E.** If the Department determines that the employer fails to meet any term or condition of the SOU, the Department may terminate the grant and the employer shall submit to the Department the items required under subsections (A) through (D) within 10 days following termination of the grant or expiration of the grant deadline.

R20-1-120. Final Evaluation Criteria Repealed

- A.** The Department shall use final evaluation criteria to determine the effective use of the training fund as required by A.R.S. § 41-1542(C)(6) and to determine future funding and possible changes of these rules.
- B.** Final evaluation criteria shall include:
 1. Number of persons trained;
 2. Costs for each type of training or recruitment;
 3. Number of hours a week a recipient of program assistance expects new employees to work;
 4. The amount of state income, sales, and property taxes that a person making the starting wage could be expected to pay;
 5. Benefits in addition to wages that a recipient of program assistance provides the employees;
 6. Health insurance policy coverage and the amount a recipient of program assistance expects the employee to contribute;
 7. Demographic background of the persons trained, including age, race, gender, ethnic background, veteran and handicap status;
 8. Number of persons trained who qualified through the Job Training Partnership Act or as displaced homemakers;
 9. Number of jobs located in a rural or economically depressed area; and
 10. Impact of the jobs created on the overall economy of the state.